

Waxman Takes on Bush White House

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By Lionel Deerlin

You wouldn't take Henry Waxman for a mover or shaker. At five and one-half feet and under 150 pounds, he could be a stand-in for Mahatma Gandhi. Spot Waxman in a hotel lobby, and you might expect him to take your drink order.

He's that unimposing. Yet this balding 62-year-old, now serving a 14th elective term from the 29th Congressional District of California, may shortly bring a national administration to heel. Waxman embodies old Aesop's adage (or was it Mark Twain?) that you cannot tell from the looks of a frog how far he can jump. A half-dozen tobacco industry executives had no idea what they were up against in 1994 when Waxman asked them, one after another, if cigarette smoking is addictive. Without hesitation, all answered no.

But (gulp!) these witnesses were under oath. And Waxman, who chaired the House Commerce Subcommittee on Health, knew all had been privy to unpublicized lab work that rated tobacco as addictive as any drug. Their denials added up to perjury.

Only by a sense of duty, he insists, not because he enjoys it, Waxman is making news once more. And being pictured again as the skunk at a garden party.

He felt miffed last spring when Vice President Dick Cheney announced a new U.S. energy policy. The accompanying document looked kindly on the oil industry and contained certain proposals (e.g., drilling in Alaska) offensive to environmentalists. Suspecting a lack of balance in the vice president's circle of advisers, Waxman decided to get a closer look.

His curiosity prompted a showdown over executive privilege. In a mildly confrontational letter to Cheney, Waxman asked why the conferences on energy policy had been off-limits to press and public. As a result, he noted, outsiders could not readily evaluate their product.

The congressman asked for (1) a list of everyone who took part in the energy meetings. He wanted (2) to know the dates each had attended, (3) on what subjects they were consulted and (4) who had favored or opposed some of the more controversial recommendations the administration was putting forward as government policy.

In short, Mr. Vice President, what went on behind closed doors?

Dick Cheney is no neophyte. He too was once a congressman, though not for nearly so long as Waxman. But his curriculum vitae includes some even more prestigious jobs -- White House chief of staff, secretary of Defense and now vice president. Could some pipsqueak up on Capitol Hill expect to push this guy around?

The response to Waxman might have intimidated a lesser man. Cheney lay claim to support of the Founding Fathers, citing the constitutional separation of powers and asserting the "executive privilege" any administration feels it must enjoy to consult whom it pleases -- when, where and without kibitzers.

The message was clear: Congressman, you're barking up the wrong tree.

In a second letter, Waxman denied he intended a constitutional affront. But he questioned whether public policy can properly be established, or Congress can legislate without access to the sort of information he sought.

The terrorist attacks of Sept. 11 diverted national attention, momentarily muting the dispute over energy policy. It was unexpectedly revived by events surrounding the collapse of Enron.

Kenneth Lay's corporate piggy bank is known to have had prodigious input into the energy powwows. Embarrassing for Cheney, several paragraphs in his final policy draft seem lifted intact from Enron proposals. Equally troubling, environmental leaders say they were not consulted until near the end of those meetings.

Once again, Henry Waxman felt in a letter-writing mood. Only this time he bypassed Cheney, addressing instead the General Accounting Office. He asked this nonpartisan congressional watchdog agency for help in cracking the vice president's wall of silence.

Things have since moved swiftly. The GAO asked Cheney to produce the same information Waxman wanted. Cheney responded as resolutely as before -- and told reporters, "Let them sue me."

Precisely what GAO now intends doing. A court test seems likely to determine the validity and extent of executive privilege.

Such confrontations in the past usually have turned on a president's war powers. The most recent run-in, however, was occasioned by President Nixon's refusal to surrender audiotapes to Watergate probers until the U.S. Supreme Court compelled it.

With or without a court ruling, it's believed Cheney will eventually feel pressured to provide the information he has been asked for.

In which case Waxman might have one more question. Would the veep prefer his crow on white or rye?